



## NOTICE OF ALLOWANCE AND ISSUE FEE DUE

0M31/0419

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APPLICATION NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
08/889,661	07/08/97	026	WOO, J	3731 04/19/99
First Named Applicant	WINSLOW,	35 USC 154(b) term ext.	=	0 Days.

TITLE OF INVENTION METHOD AND INSTRUMENTATION FOR IMPLANT INSERTION

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEES DUE	DATE DUE
3 1791-CON	606-061.000	R96	UTILITY	NO	\$1210.00	07/19/99

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT.**  
**PROSECUTION ON THE MERITS IS CLOSED.**

**THE ISSUE FEE MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED.**

### HOW TO RESPOND TO THIS NOTICE:

- I. Review the SMALL ENTITY status shown above.  
If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:
  - A. If the status is changed, pay twice the amount of the FEE DUE shown above and notify the Patent and Trademark Office of the change in status, or
  - B. If the status is the same, pay the FEE DUE shown above.  
If the SMALL ENTITY is shown as NO:
  - A. Pay FEE DUE shown above, or
  - B. File verified statement of Small Entity Status before, or with, payment of 1/2 the FEE DUE shown above.
- II. Part B-Issue Fee Transmittal should be completed and returned to the Patent and Trademark Office (PTO) with your ISSUE FEE. Even if the ISSUE FEE has already been paid by charge to deposit account, Part B Issue Fee Transmittal should be completed and returned. If you are charging the ISSUE FEE to your deposit account, section "4b" of Part B-Issue Fee Transmittal should be completed and an extra copy of the form should be submitted.
- III. All communications regarding this application must give application number and batch number.  
Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.**

PATENT AND TRADEMARK OFFICE COPY

<b>Notice of Allowability</b>	Application No. <b>08/889,661</b>	Applicant(s) <b>Winslow et al.</b>
	Examiner <b>Julian W. Woo</b>	Group Art Unit <b>3731</b>

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course.

This communication is responsive to the amendment of 12-28-98

The allowed claim(s) is/are 2-19 and 22-29

The drawings filed on \_\_\_\_\_ are acceptable.

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

A SHORTENED STATUTORY PERIOD FOR RESPONSE to comply with the requirements noted below is set to EXPIRE THREE MONTHS FROM THE "DATE MAILED" of this Office action. Failure to timely comply will result in ABANDONMENT of this application. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION, PTO-152, which discloses that the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.

Applicant MUST submit NEW FORMAL DRAWINGS

because the originally filed drawings were declared by applicant to be informal.

including changes required by the Notice of Draftsperson's Patent Drawing Review, PTO-948, attached hereto or to Paper No. \_\_\_\_\_.

including changes required by the proposed drawing correction filed on \_\_\_\_\_, which has been approved by the examiner.

including changes required by the attached Examiner's Amendment/Comment.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the reverse side of the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Any response to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE/SERIAL NUMBER). If applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). 15, 16

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

Interview Summary, PTO-413

Examiner's Amendment/Comment

Examiner's Comment Regarding Requirement for Deposit of Biological Material

Examiner's Statement of Reasons for Allowance

Art Unit: 3731 (formerly 3309)

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Joseph Schmidt on 16 April 1999.

2. The application has been amended as follows:

*D* In claim 12, line 8, after "thereof," add -/; and a cap engageable with the proximal end portion of the sleeve member, the cap for receiving the impact of a driving instrument used to engage the retractor instrument with the tissue portions-.

*D2* In claim 15, line 4, between "therebetween" and "; and," insert -the sleeve body having an opening in a side wall portion thereof-.

*D3* In claim 18, line 4, delete "and." In line 11, after "elongate body," add -/ and an impactor member mounted adjacent the proximal end of the elongate body and being dimensioned to receive the impact of a driving member utilized to position the first and second retractor arms with respect to the adjacent vertebrae-.

*D4* In claim 27, line 8, after "thereof," add -/ the sleeve member including an opening in an outer wall portion thereof and proximate the distal end portion of the sleeve member-.

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Art Unit: 3731 (formerly 3309)

3.

The following is an examiner's statement of reasons for allowance: The prior art of record discloses substantially surgical retractors for the spine. For example, Michelson discloses in U.S. patents Des.374,283 and Des.397,436, spinal retractors each with an elongate member, a longitudinal passageway, and retractor arms at the distal end of the elongate member. However, the invention discloses a surgical retractor with an elongate member, a longitudinal passageway, retractor arms at the distal end of the elongate member, and an opening in an outer wall of the elongate member. Additionally, the invention discloses an impactor member engageable with the proximal end of the elongate member. The invention also includes methods for performing a surgical spinal procedure with a surgical retractor with an opening in its outer wall for introduction of surgical instrumentation into a spine. Thus, the invention is distinguishable over the prior art of record, and the claims are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 3731 (formerly 3309)

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian W. Woo whose telephone number is (703) 308-0421. The examiner can normally be reached Mon.-Fri., 7:00 AM to 3:30 PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Buiz, can be reached at (703) 308-0871.

General inquiries relating to the status of this application should be directed to the Group receptionist at (703)308-0858. The FAX number is (703)305-3579.



Julian W. Woo

Patent Examiner

MICHAEL BUIZ  
SUPERVISORY PATENT EXAMINER  
GROUP 3300

April 16, 1999